

### § 706. Return of arms and equipment upon relief from Federal service

So far as practicable, whenever units, organizations, or members of the National Guard are returned to their National Guard status under section 325(b) of this title, arms and equipment that the Secretary concerned determines are sufficient to accomplish their peacetime mission shall be returned with them.

(Aug. 10, 1956, ch. 1041, 70A Stat. 613.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
706 .....	50:1122(b) (last 17 words.)	July 9, 1952, ch. 608, § 712(b) (last 17 words), 66 Stat. 504.

The words “So far as practicable” are inserted, since sufficient arms and equipment might not be available.

### § 707. Use of public buildings for offices by instructors

Whenever practicable, instructors of the National Guard shall use State armories or other public buildings for offices.

(Aug. 10, 1956, ch. 1041, 70A Stat. 614.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
707 .....	32:74.	May 12, 1917, ch. 12 (10th proviso under “National Guard”), 40 Stat. 68.

The word “instructors” is substituted for the words “inspector-instructors”, since there are no longer any “inspector-instructors”.

### § 708. Property and fiscal officers

(a) The Governor of each State or Territory and Puerto Rico, and the commanding general of the National Guard of the District of Columbia, shall appoint, designate or detail, subject to the approval of the Secretary of the Army and the Secretary of the Air Force, a qualified commissioned officer of the National Guard of that jurisdiction who is also a commissioned officer of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, to be the property and fiscal officer of that jurisdiction. If the officer is not on active duty, the President may order him to active duty, with his consent, to serve as a property and fiscal officer.

(b) Each property and fiscal officer shall—

(1) receipt and account for all funds and property of the United States in the possession of the National Guard for which he is property and fiscal officer; and

(2) make returns and reports concerning those funds and that property, as required by the Secretary concerned.

(c) When he ceases to hold that assignment, a property and fiscal officer resumes his status as an officer of the National Guard.

(d) The Secretaries shall prescribe a maximum grade, commensurate with the functions and responsibilities of the office, but not above colonel, for the property and fiscal officer of the

United States for the National Guard of each State or Territory, Puerto Rico, and the District of Columbia.

(e) The Secretary of the Army and the Secretary of the Air Force shall prescribe joint regulations necessary to carry out subsections (a)–(d).

(f) A property and fiscal officer may intrust money to an officer of the National Guard to make disbursements as his agent. Both the officer to whom money is intrusted, and the property and disbursing officer intrusting the money to him, are pecuniarily responsible for that money to the United States. The agent officer is subject, for misconduct as an agent, to the liabilities and penalties prescribed by law in like cases for the property and fiscal officer for whom he is acting.

(Aug. 10, 1956, ch. 1041, 70A Stat. 614; June 6, 1972, Pub. L. 92–310, title II, § 207, 86 Stat. 203; July 30, 1977, Pub. L. 95–79, title VIII, § 804(b), 91 Stat. 333; Dec. 12, 1980, Pub. L. 96–513, title V, § 515(4), 94 Stat. 2937; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, § 1234(b)(1), 102 Stat. 2059; Nov. 29, 1989, Pub. L. 101–189, div. A, title VI, § 653(g), 103 Stat. 1463.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
708(a) .....	32:49 (last sentence; and 2d sentence, less last 24 words).	June 3, 1916, ch. 134, § 67 (last par.), 39 Stat. 200; July 9, 1918, ch. 143, subch. III (last par.); restated July 6, 1954, ch. 462, 58 Stat. 451.
708(b).	32:49 (3d and 4th sentences).	June 3, 1924, ch. 244, § 5, 43 Stat. 365; July 6, 1954, ch. 462, 68 Stat. 451.
708(c).	32:49 (last 24 words of 2d sentence).	
708(d).	32:49 (5th and 6th sentences).	
708(e).	32:49 (last sentence, less 1st 18 words).	
708(f) .....	32:49 (1st 18 words of last sentence).	
708(g) .....	32:50.	

In subsection (b)(1), the words “the duties of that assignment” are substituted for the words “his duties as property and fiscal officer”. The words “be required to” are omitted as surplusage.

In subsection (b)(2), the words “of the National Guard for which he is property and fiscal officer” are substituted for the words “of the National Guard or Air National Guard of the State, Territory, or District of Columbia”.

In subsection (c), 32:49 (5th sentence) is omitted, since the officer concerned would be entitled, under section 201 of the Career Compensation Act of 1949 (37 U.S.C. 232), to the pay and allowances of the grade in which he is serving.

In subsection (e), the words “The Secretaries shall prescribe” are substituted for the words “which rules and regulations shall establish”. The word “duties” is omitted as surplusage.

In subsection (f), the words “rules and” and “the provisions of” are omitted as surplusage.

In subsection (g), the words “Under such regulations as may be prescribed by the Secretary of the Army” are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The words “an officer” are substituted for the words “other officers”, since, under revised subsection (a), the property and fiscal officer is not required to be an officer of the National Guard. The words “accountable for public moneys” and “as agent” are omitted as surplusage.

#### AMENDMENTS

1989—Subsec. (a). Pub. L. 101–189 substituted “The Governor of each State or Territory and Puerto Rico”

for “The governor of each State and Territory, Puerto Rico, and the Canal Zone”.

1988—Subsec. (d). Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

1980—Subsec. (b). Pub. L. 96-513 redesignated pars. (2) and (3) as (1) and (2), respectively.

1977—Subsec. (d). Pub. L. 95-79, §804(b)(1), (2), redesignated subsec. (e) as (d). Former subsec. (d), which authorized inspections at least once a year by Inspectors General of the departments concerned, was struck out.

Subsec. (e). Pub. L. 95-79, §804(b)(2), (3), redesignated subsec. (f) as (e) and substituted “(d)” for “(e)”. Former subsec. (e) redesignated (d).

Subsecs. (f), (g). Pub. L. 95-79, §804(b)(2), redesignated subsecs. (f) and (g) as (e) and (f), respectively.

1972—Subsec. (b)(1). Pub. L. 92-310 repealed provisions which related to the bond required of property and fiscal officers.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 101, 523, 641, 771a, 10503, 12647.

### § 709. Technicians: employment, use, status

(a) Under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, and subject to subsection (b) of this section persons may be employed as technicians in—

(1) the administration and training of the National Guard; and

(2) the maintenance and repair of supplies issued to the National Guard or the armed forces.

(b) Except as prescribed by the Secretary concerned, a technician employed under subsection (a) shall, while so employed, be a member of the National Guard and hold the military grade specified by the Secretary concerned for that position.

(c) The Secretary concerned shall designate the adjutants general referred to in section 314 of this title, to employ and administer the technicians authorized by this section.

(d) A technician employed under subsection (a) is an employee of the Department of the Army or the Department of the Air Force, as the case may be, and an employee of the United States. However, a position authorized by this section is outside the competitive service if the technician employed therein is required under subsection (b) to be a member of the National Guard.

(e) Notwithstanding any other provision of law and under regulations prescribed by the Secretary concerned—

(1) a technician who is employed in a position in which National Guard membership is required as a condition of employment and who is separated from the National Guard or ceases to hold the military grade specified for his position by the Secretary concerned shall be promptly separated from his technician employment by the adjutant general of the jurisdiction concerned;

(2) a technician who is employed in a position in which National Guard membership is required as a condition of employment and who fails to meet the military security stand-

ards established by the Secretary concerned for a member of a reserve component of the armed force under his jurisdiction may be separated from his employment as a technician and concurrently discharged from the National Guard by the adjutant general of the jurisdiction concerned;

(3) a technician may, at any time, be separated from his technician employment for cause by the adjutant general of the jurisdiction concerned;

(4) a reduction in force, removal, or an adverse action involving discharge from technician employment, suspension, furlough without pay, or reduction in rank or compensation shall be accomplished by the adjutant general of the jurisdiction concerned;

(5) a right of appeal which may exist with respect to clause (1), (2), (3), or (4) shall not extend beyond the adjutant general of the jurisdiction concerned; and

(6) a technician shall be notified in writing of the termination of his employment as a technician and, unless the technician is serving under a temporary appointment, is serving in a trial or probationary period, or has voluntarily ceased to be a member of the National Guard when such membership is a condition of employment, such notification shall be given at least 30 days before the termination date of such employment.

(f) Sections 2108, 3502, 7511, and 7512<sup>1</sup> of title 5 do not apply to any person employed under this section.

(g)(1) Notwithstanding sections 5544(a) and 6101(a) of title 5 or any other provision of law, the Secretary concerned may, in the case of technicians assigned to perform operational duties at air defense sites—

(A) prescribe the hours of duties;

(B) fix the rates of basic compensation; and

(C) fix the rates of additional compensation;

to reflect unusual tours of duty, irregular additional duty, and work on days that are ordinarily nonworkdays. Additional compensation under this subsection may be fixed on an annual basis and is determined as an appropriate percentage, not in excess of 12 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS-10 of the General Schedule under section 5332 of title 5.

(2) Notwithstanding sections 5544(a) and 6101(a) of title 5 or any other provision of law, the Secretary concerned may, for technicians other than those described in paragraph (1), prescribe the hours of duty for technicians. Notwithstanding sections 5542 and 5543 of title 5 or any other provision of law, such technicians shall be granted an amount of compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in irregular or overtime work, and shall not be entitled to compensation for such work.

[h] Repealed. Pub. L. 103-160, div. A, title V, §524(d), Nov. 30, 1993, 107 Stat. 1657.]

(i) The Secretary concerned may not prescribe for purposes of eligibility for Federal recogni-

<sup>1</sup> See References in Text note below.